

which, no reasonable person could have arrived at on the basis of material before him. In the present case, this Court has not the privilege of appraising the evidence produced by the respondent or the defence adduced by the workman during enquiry proceedings, because copies of the statements have not been placed on record and nor did the respondent have chosen to place on record the domestic enquiry file. As already observed, though there is mention in the order of dismissal Ex. M-3 that before passing the same, a show cause notice was issued to the workman but even a copy of the show cause notice or any reply filed by the workman have not been placed on record. Similarly, there is no evidence on record that any reply was filed by the workman to the chargesheet issued against him. The respondent/Corporation has given a detailed procedure in Rule 25 for holding a domestic enquiry before imposing major penalties upon its employees. At the risk of repetition, it can be observed that from the evidence on record, it cannot be held that the procedure laid down in the said Rule was adhered to by the Enquiry Officer while holding the domestic enquiry against the workman. So, the validity and legality of the domestic enquiry cannot be upheld and as such this issue is answered against the respondent/Corporation.

10. Before parting with this reference, I cannot restrain myself from observing that the relief is being given to the workman, because of not proper prosecution of the case by the respondent/Corporation. The respondent/Corporation even did not reserve its right to adduce evidence on merits regarding the allegations against the workman, in case domestic/departmental enquiry was not held to be valid and proper. Without such a request from the respondent, this Court cannot grant any opportunity to the respondent to adduce evidence on merits as held in 1979(2) LLJ, 194 between Shanker Chakarwari and Britannia Biscuit Co. Ltd.

11. In the light of my forgoing discussion, I have no option but to hold that the order of dismissal dated 21st August, 1982 was illegal and unlawful and as such the same is set aside and the workman is ordered to be reinstated with continuity of service and with full back wages. The reference is answered and returned accordingly. There is no order as to cost.

Dated : The 6th March, 1985

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

Endst. No. 112/83/453, dated the 16th March, 1985

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

The 15th May, 1985

No. 9/5/84-6Lab/3652.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s. Ajay Udyog (P.) Ltd., Bahadurgarh (Rohtak).

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 175 of 1984

between

SHRI HARI NARAIN, WORKMAN AND THE MANAGEMENT OF M/S. AJAY UDYOG (P.) LTD., BAHADURGARH (ROHTAK).

Shri Dhan Singh, A.R., for the workman.

None for the respondent.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the workman Shri Hari Narain and the management of M/s Ajay Udyog (P.) Ltd., Bahadurgarh (Rohtak), to this Court, for adjudication,—*vide* Labour Department Gazette Notification No. 33614—19, dated 3rd September, 1984 :—

Whether the termination of services of Shri Hari Narain is justified and in order ? If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were sent to the parties. The workman appeared but the respondent did not appear in spite of service through registered notice. Since many references are pending against the respondent, so, combined registered notice was sent to the respondent, which is tagged with reference file No. 166 of 1984. The respondent did not appear in spite of service and as such, *ex parte* proceedings order was passed against him by me on 27th December, 1984.

3. The case of the workman is that he was employed with the respondent on 1st January, 1981 as Machineman on monthly wages of Rs. 375 but the respondent choose to terminate his services unlawfully without any prior notice or payment of any retrenchment compensation and as such the respondent contravened the provisions of section 25-F of the Industrial Disputes Act, so, there is a prayer for reinstatement with continuity of service and full back wages.

4. As already observed, the respondent did not appear in spite of service and as such *ex parte* proceedings order was passed against the respondent by me on 27th December, 1984.

5. In *ex parte* evidence, the workman appeared as his own witness as WW-1 and made a statement completely in corroboration of his claim. I, see no reason to disbelieve the sworn deposition made by the workman, which remains un rebutted, because the respondent did not appear to contest the claim of the workman. So, the workman is ordered to be reinstated with continuity of service and full back wages. The reference is answered and returned accordingly. There is no order as to cost.

Dated the 18th April, 1985.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.
Camp Court Bahadurgarh.

Endst. No. 175-84/662, dated 16th April, 1985

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.
Camp Court Bahadurgarh.

The 23rd May, 1985

No. 9/5/84-Lab/3950.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and management of M/s Raj Metal, Delhi Road, Rewari.

IN THE COURT OF SHRI R. N. SINGAL, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 222 of 1983

between

SHRI SATVIR, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S RAJ METAL
DELHI ROAD, REWARI

Present:—

Shri Mahavir Tyagi, for the workman.

None for the respondent-management.

AWARD

This reference has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/33565—70, dated 19th July, 1984, under section 10(i)(c) of the Industrial Disputes Act, 1947, for adjudication of the Industrial Disputes existing between Shri Satvir, workman and the respondent-management of M/s Raj Metal, Delhi Road, Rewari. The term of the reference was:—

Whether the termination of service of Shri Satvir, is justified and in order? If not, to what relief is he entitled?

According to demand notice, the claimant worked for seven months with the respondent as helper. His services were terminated on 10th December, 1982 without any chargesheet. He has prayed for reinstatement with full back wages.

In the claim statement he has rebutted his averments of the demand notice. This claim statement was contested by the management. It is denied that the claimant was employee of the respondent. The claim was contested on the following issues :—

1. Whether there is relationship of employer and employee exist between the parties ?
2. As per reference ?

The management did not appear on 3rd December, 1984. Hence the management was proceeded *ex parte*. I have gone through the entire file, My findings on the issues is as follows :—

Issue No. 1.

According to the *ex parte* statement of the claimant he was working with the respondent and his services were terminated on 10th December, 1982. Hence it is proved that was the employee of the respondent. In the claim statement he has stated that he had worked for 7 months when his services were terminated. But in his statement he has stated that he had worked for one year. This part of the statement of the workman is not correct as per demand notice and claim statement. He had put only seven months service when his services were terminated.

Issue No. 2

As the workman had not completed 240 days of service at the time of his service, he is, therefore, not entitled to the benefit of section 25-F of the Industrial Disputes Act, 1947. He had completed 7 months service only. Hence his services could be terminated by the respondent at any time. The workman is not entitled to reinstatement/reemployment.

The award is therefore given accordingly.

Dated, the 11th April, 1985.

R. N. SINGAL,

Presiding Officer,
Labour Court,
Faridabad.

Endst. No. 1190, dated the 2nd May, 1985.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 4 of section 33-C of the Industrial Disputes Act.

R. N. SINGAL,

Presiding Officer,
Labour Court,
Faridabad.